
SENATE BILL No. 378

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5; IC 6-6-6.5.

Synopsis: Taxation of certain aircraft services. Provides a limited use tax exemption for an aircraft that is titled or registered in another state or country and is temporarily brought to Indiana to be repaired, refurbished, remanufactured, or subjected to a prepurchase evaluation. Expands the limited sales tax exemption under current law for a transaction involving an aircraft to include transactions in which the aircraft that is purchased by a nonresident remains in Indiana for up to 30 days after the aircraft is repaired, refurbished, or remanufactured. Expands the exemption from the aircraft registration requirements under the aircraft license excise tax statute for a nonresident who bases an aircraft with a dealer while the aircraft is being repaired, remodeled, or refurbished to include aircraft that are based with a person that has been issued a repair station certificate by the Federal Aviation Administration.

Effective: July 1, 2007.

Young R Michael

January 11, 2007, read first time and referred to Committee on Tax and Fiscal Policy.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 378

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-2.5-3-2, AS AMENDED BY P.L.162-2006,
2 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 2. (a) An excise tax, known as the use tax, is
4 imposed on the storage, use, or consumption of tangible personal
5 property in Indiana if the property was acquired in a retail transaction,
6 regardless of the location of that transaction or of the retail merchant
7 making that transaction.

8 (b) The use tax is also imposed on the storage, use, or consumption
9 of a vehicle, an aircraft, or a watercraft, if the vehicle, aircraft, or
10 watercraft:

11 (1) is acquired in a transaction that is an isolated or occasional
12 sale; and

13 (2) is required to be titled, licensed, or registered by this state for
14 use in Indiana.

15 (c) The use tax is imposed on the addition of tangible personal
16 property to a structure or facility, if, after its addition, the property
17 becomes part of the real estate on which the structure or facility is

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located. However, the use tax does not apply to additions of tangible personal property described in this subsection, if:

(1) the state gross retail or use tax has been previously imposed on the sale or use of that property; or

(2) the ultimate purchaser or recipient of that property would have been exempt from the state gross retail and use taxes if that purchaser or recipient had directly purchased the property from the supplier for addition to the structure or facility.

(d) The use tax is imposed on a person who:

(1) manufactures, fabricates, or assembles tangible personal property from materials either within or outside Indiana; and

(2) uses, stores, distributes, or consumes tangible personal property in Indiana.

(e) Notwithstanding any other provision of this section, the use tax is not imposed on the keeping, retaining, or exercising of any right or power over tangible personal property, if:

(1) the property is delivered into Indiana by or for the purchaser of the property;

(2) the property is delivered in Indiana for the sole purpose of being processed, printed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property; and

(3) the property is subsequently transported out of state for use solely outside Indiana.

(f) As used in this subsection, "prepurchase evaluation" means an examination of an aircraft by a potential purchaser for the purpose of obtaining information relevant to the potential purchase of the aircraft. Notwithstanding any other provision of this section, the use tax is not imposed on the keeping, retaining, or exercising of any right or power over an aircraft, if:

(1) the aircraft is titled, registered, or based (as defined in IC 6-6-6.5-1(m)) in another state or country;

(2) the aircraft is delivered to Indiana by or for a nonresident owner or purchaser of the aircraft;

(3) the aircraft is delivered to Indiana for the sole purpose of being repaired, refurbished, remanufactured, or subjected to a prepurchase evaluation; and

(4) after completion of the repair, refurbishment, remanufacture, or prepurchase evaluation, the aircraft is transported to a destination outside Indiana.

SECTION 2. IC 6-2.5-5-39, AS AMENDED BY P.L.92-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2007]: Sec. 39. (a) As used in this section, "cargo trailer" means a vehicle:

- (1) without motive power;
- (2) designed for carrying property;
- (3) designed for being drawn by a motor vehicle; and
- (4) having a gross vehicle weight rating of at least two thousand two hundred (2,200) pounds.

(b) As used in this section, "recreational vehicle" means a vehicle with or without motive power equipped exclusively for living quarters for persons traveling upon the highways. The term includes a travel trailer, a motor home, a truck camper with a floor and facilities enabling it to be used as a dwelling, and a fifth wheel trailer.

(c) A transaction involving a cargo trailer ~~or~~ a recreational vehicle ~~or an aircraft~~ is exempt from the state gross retail tax if:

- (1) the purchaser is a nonresident;
- (2) upon receiving delivery of the cargo trailer ~~or~~ recreational vehicle, ~~or aircraft~~, the person transports it within thirty (30) days to a destination outside Indiana;
- (3) the cargo trailer ~~or~~ recreational vehicle ~~or aircraft~~ will be titled or registered for use in another state or country;
- (4) the cargo trailer ~~or~~ recreational vehicle ~~or aircraft~~ will not be titled or registered for use in Indiana; and
- (5) in the case of a transaction involving a cargo trailer or recreational vehicle, the cargo trailer or recreational vehicle will be titled or registered in a state or country that provides an exemption from sales, use, or similar taxes imposed on a cargo trailer or recreational vehicle that is purchased in that state or country by an Indiana resident and will be titled or registered in Indiana.

A transaction involving a cargo trailer or recreational vehicle that does not meet the requirements of subdivision (5) is not exempt from the state gross retail tax.

(d) A purchaser must claim an exemption under this section by submitting to the retail merchant an affidavit stating the purchaser's intent to:

- (1) transport the cargo trailer ~~or~~ recreational vehicle ~~or aircraft~~ to a destination outside Indiana within thirty (30) days after delivery; and
- (2) title or register the cargo trailer ~~or~~ recreational vehicle ~~or aircraft~~ for use in another state or country.

The department shall prescribe the form of the affidavit, which must include an affirmation by the purchaser under the penalties for perjury

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that the information contained in the affidavit is true. The affidavit must identify the state or country in which the cargo trailer or recreational vehicle ~~or aircraft~~ will be titled or registered.

(e) The department shall provide the information necessary to determine a purchaser's eligibility for an exemption claimed under this section to retail merchants in the business of selling cargo trailers or recreational vehicles.

SECTION 3. IC 6-2.5-5-42 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 42. (a) A transaction involving an aircraft is exempt from the state gross retail tax if:**

(1) the purchaser is a nonresident;

(2) the purchaser transports the aircraft to a destination outside Indiana within thirty (30) days after:

(A) accepting delivery of the aircraft; or

(B) a repair, refurbishment, or remanufacture of the aircraft is completed, if the aircraft remains in Indiana after the purchaser accepts delivery for the purpose of accomplishing the repair, refurbishment, or remanufacture of the aircraft;

(3) the aircraft will be:

(A) titled or registered in another state or country; or

(B) if a state or country does not require a title or registration for aircraft, based (as defined in IC 6-6-6.5-1(m)) in that state or country; and

(4) the aircraft will not be titled or registered in Indiana.

(b) A purchaser must claim an exemption under subsection (a) by submitting to the seller an affidavit affirming the elements required by subsection (a). In addition, the affidavit must identify the state or country in which the aircraft will be titled, registered, or based.

(c) Within sixty (60) days after:

(1) a purchaser who claims an exemption under this section accepts delivery of the aircraft; or

(2) a repair, refurbishment, or remanufacture of the aircraft subject to an exemption under this section is completed, if the aircraft remains in Indiana after the purchaser accepts delivery for the purpose of accomplishing the repair, refurbishment, or remanufacture of the aircraft;

the purchaser shall provide the seller with a copy of the purchaser's title or registration of the aircraft outside Indiana. If the state or country in which the aircraft is based does not require

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1 the aircraft to be titled or registered, the purchaser shall provide
 2 the seller with a copy of the aircraft registration application for the
 3 aircraft as filed with the Federal Aviation Administration.

4 (d) The department shall prescribe the form of the affidavit
 5 required by subsection (b).

6 SECTION 4. IC 6-6-6.5-1 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this
 8 chapter, unless the context clearly indicates otherwise:

9 (a) "Aircraft" means a device which is designed to provide air
 10 transportation for one (1) or more individuals or for cargo.

11 (b) "State" means the state of Indiana.

12 (c) "Department" refers to the department of state revenue.

13 (d) "Person" includes an individual, a partnership, a firm, a
 14 corporation, a limited liability company, an association, a trust, or an
 15 estate, or a legal representative of such.

16 (e) "Owner" means a person who holds or is required to obtain a
 17 certificate of registration from the Federal Aviation Administration for
 18 a specific aircraft. In the event an aircraft is the subject of an agreement
 19 for the conditional sale or lease with the right of purchase upon the
 20 performance of the conditions stated in the agreement and with an
 21 immediate right of possession of the aircraft vested in the conditional
 22 vendee or lessee, or in the event the mortgagor of an aircraft is entitled
 23 to possession, then the conditional vendee or lessee or mortgagor shall
 24 be deemed to be the owner for purposes of this chapter.

25 (f) "Dealer" means a person who has an established place of
 26 business in this state, is required to obtain a certificate under
 27 IC 6-2.5-8-1 or IC 6-2.5-8-3 and is engaged in the business of
 28 manufacturing, buying, selling, or exchanging new or used aircraft.

29 (g) "Maximum landing weight" means the maximum weight of the
 30 aircraft, accessories, fuel, pilot, passengers, and cargo that is permitted
 31 on landing under the best conditions, as determined for an aircraft by
 32 the appropriate federal agency or the certified allowable gross weight
 33 published by the manufacturer of the aircraft.

34 (h) "Resident" means an individual or a fiduciary who resides or is
 35 domiciled within Indiana or any corporation or business association
 36 which maintains a fixed and established place of business within
 37 Indiana for a period of more than sixty (60) days in any one (1) year.

38 (i) "Taxable aircraft" means an aircraft required to be registered
 39 with the department by this chapter.

40 (j) "Regular annual registration date" means the last day of February
 41 of each year.

42 (k) "Taxing district" means a geographic area within which property

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is taxed by the same taxing units and at the same total rate.

(l) "Taxing unit" means an entity which has the power to impose ad valorem property taxes.

(m) "Base" means the location or place where the aircraft is normally hangared, tied down, housed, parked, or kept, when not in use.

(n) "Homebuilt aircraft" means an aircraft constructed primarily by an individual for personal use. The term homebuilt aircraft does not include an aircraft constructed primarily by a for-profit aircraft manufacturing business.

(o) "Pressurized aircraft" means an aircraft equipped with a system designed to control the atmospheric pressure in the crew or passenger cabins.

(p) "Establishing a base" means renting or leasing a hangar or tie down for a particular aircraft for at least thirty-one (31) days.

(q) "Inventory aircraft" means an aircraft held for resale by a registered Indiana dealer.

(r) "Repair station" means a person who holds a repair station certificate that was issued to the person by the Federal Aviation Administration under 14 CFR Part 145.

SECTION 5. IC 6-6-6.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Except as otherwise provided in this chapter, any resident of this state who owns an aircraft shall register the aircraft with the department not later than thirty-one (31) days after the purchase date.

(b) Except as otherwise provided in this chapter, any nonresident who bases an aircraft in this state for more than sixty (60) days shall register the aircraft with the department under this chapter not later than sixty (60) days after establishing a base in Indiana.

(c) Except as otherwise provided in this chapter, an Indiana resident who owns a homebuilt aircraft shall register the aircraft with the department not later than thirty-one (31) days after the date the Federal Aviation Administration has issued the certificate of registration and air worthiness certificate for the aircraft.

(d) Notwithstanding subsection (b), if a nonresident bases an aircraft in Indiana with a dealer **or repair station** solely for repairing, remodeling, or refurbishing the aircraft, neither the nonresident nor the dealer **or repair station** is required to register the aircraft with the department under this chapter. However, the dealer **or repair station** shall file a report with the department the month after the end of each calendar quarter. The report must list only:

(1) the dealer's name and address and of the dealer or repair

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- 1 **station;**
- 2 **(2) either:**
- 3 **(A) the dealer's** certification number; **or**
- 4 **(B) the repair station's certificate number;** and
- 5 **(3) the N number of each aircraft that was based in this state for**
- 6 more than sixty (60) days during the preceding quarter.

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